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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/681,475	04/13/2001	Paul L. Mullen	GEMS8081.070	7317
27061	7590	12/14/2004	EXAMINER	
ZIOLKOWSKI PATENT SOLUTIONS GROUP, LLC (GEMS) 14135 NORTH CEDARBURG ROAD MEQUON, WI 53097			LANEAU, RONALD	
			ART UNIT	PAPER NUMBER
			3627	

DATE MAILED: 12/14/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/681,475	MULLEN ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Ronald Laneau	3627	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 21 September 2004.

2a) This action is FINAL.                    2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-34 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-34 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____.
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____.

***Response to Appeal Brief***

1. In view of the arguments in the Appeal Brief, prosecution is reopened and a new rejection follows.

***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fera et al (US 6,338,152) in view of Hershey et al (US 6,175,934) and further in view of Parker et al (US 2002/0116541).

Fera discloses a system and method for remotely managing communication of electronic data between a diagnostic service center and a plurality of machines generally remote relative to each other including the steps of remotely collecting condition data representative of a device status (see col. 3, lines 55-57); storing the condition data on a database (104) at a centralized facility; reviewing the condition data (see col. 13, lines 35-42); and displaying it on a graphical user interface 406 (col. 17, lines 47-49), updating the maintenance file record to reflect the diagnosis, the schedule for service, etc (col. 2, lines 6-19). Fera further teaches that the statistic log may be configured so that the graphical user interface allows for user-friendly manipulation of data and for example generation of reports may be implemented in graphical and/or tabular format with electronic editing, copying, cutting and pasting options (col. 14, lines 4-9), a system

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that may be configured to generate periodic reports, e.g., weekly, monthly, etc based on the log of diagnostic statistics and the report may be configured to be distributed through the Internet or an intranet via a predetermined Web server (col. 14, lines 26-33), a system that is capable of being programmed to acquire the condition data and the reminder data via a LAN, a WAN, a telephone system, a cable communication system, and a wireless system as claimed (col. 2, lines 19-23), a system allowing operators to monitor downloads in process and/or in queue and identify the type of download (e.g., automatic, manual, etc) (col. 13, lines 29-34).

Fera does not teach that the GUI displays the time of the next scheduled maintenance but Hershey teaches the step of collecting device diagnostic data (see abs), a sensor system that collects condition data, segregated into several categories, including diagnostic data (see col. 13, lines 25-29), a step of separately displaying and identifying the device diagnostic data (see fig. 1, 54). Service is a critical part in the operational life of an apparatus and includes all necessary functions to make the apparatus useful for its intended purpose and maintenance is also a key part of service. There are three types of maintenance in the service life of an apparatus: corrective maintenance where the apparatus repaired after breakdown, preventive maintenance, where periodic maintenance is performed and predictive maintenance where maintenance is conducted before a predicted apparatus failure based on trend analysis (see col. 1, lines 15-30), the system o f Hershey is well capable of tailoring the display for a particular user as claimed.

Neither Fera nor Hershey teaches device reminder data but Parker teaches a system and method for notifying users (reminder) in a manner that is appropriate for the event and the environment for the user, profiles are created of the various events and wherein each profile

relates to a different mode of situational environment, such as meeting environment, an office or normal environment, a louder outside-type of environment. (see abstract).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to include the teachings of Hershey into the system of Fera because it would provide ways to track diagnostic data of devices to ensure they are in proper working order. And it would have been obvious to one of ordinary skill in the art to utilize the notification system (reminder system) as taught by Parker into the combined system of Fera and Hershey because it would provide the system with the ability to notify users of various events such as meeting, maintenance, etc.

None of the references teaches marketing data, customer-entered data, and messages are consolidated. However, these differences are only found in the nonfunctional descriptive material and do not alter how the information is consolidated. Thus, this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, see In re Gulack, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); In re Lowry, 32 F.3d 1579, 32 USPQ 2d 1031 (Fed Cir 1994). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to consolidate marketing data, customer-entered data, and messages because the type of information being consolidated does not patentably distinguish the claimed invention.

#### *Response to Arguments*

4. Applicant's arguments with respect to claims 1-34 have been considered but are moot in view of the new ground(s) of rejection.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ronald Laneau whose telephone number is (703) 305-3973. The examiner can normally be reached on Mon-Fri from 8:30am - 6:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Olszewski can be reached on (703) 308-5183. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Ronald Laneau  
Ronald Laneau  
Examiner  
Art Unit 3627

12/10/04